

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(e) over the patent to Myr.

The drawings and the specification are objected under 35 U.S.C. 112.

After carefully considering the Examiner's grounds for formal objections and rejections, applicants have amended the specification, provided a figure of the drawing with the proposed correction, and amended the claims. It is believed that the Examiner's grounds for formal objections and rejections are therefore eliminated.

While the formal changes made by the applicant's are self explanatory, it is believed to be advisable to clarify some of them. The term "GSM/TMS" means global system for mobile communication/traffic message channel. The term RDS/TMS means radio data system/traffic message channel. The radio data system is a system for transmission of digital

information in addition to a sound broadcasting program via a predetermined broadcasting frequency. RDS therefore has a similarity with the system RBDS which is used in the United States.

The so-called "event" is a component of a TMS (traffic message channel) traffic message. TMC-traffic messages are transmitted in form of a digital code within RDS signal. In order to maintain low the data small the data volumes to be transmitted, TMC provides that the graphic messages at the sender side are subdivided into their elementary components, they are catalogized, coded and transmitted in form of the resulting code. In the receiver the codes are then associated again with message components, which in turn are outputted acoustically or optically. An elementary component of a traffic message is the traffic signal, such as for example "jam", "slow moving traffic", "road closed for traffic", etc. The so-called "event codes" are associated with these traffic events due to the codes which correspond to the catalogization, and then they are to be transmitted.

Alert-C describes a protocol, or in other words specifications, in accordance with which a TMC traffic message is formed. This protocol is described in the European standard ENV 12313-2".

In accordance with ISO 14819-1 (which is derived from ENV 12313-1, see attachment) the alert-C protocol, in addition to so-called individual-group messages with which the total traffic message is transmitted in an individual RDS group, also provides so-called multi-group messages in accordance with which, in addition to RDS groups, additional informations are transmitted which relate to the informations in the first group. This is identified in 7.5 "multi-group messages" in ISO 14819-1. In 7.5.2, the formation of the so-called further message groups (Figure 8), is presented. In order to characterize the meaning of the content which contains in them, the further message groups have so-called "labels" (bits Y11-Y8). This sets how the digital informations following therefrom are to be interpreted.

In Section 5.4 "Optional Message Content" the label 2 identifies a completed distance or length data, or in other words the following informations identified contain a length data in the above described coded form "label 12" and "label 15, which in accordance with the provisions of 5.4 are reserved for later applications, or in other words not provided fixedly, so that the application is set on it and here the transmission of further length data are provided before the background of the inventive subject matter. The "label 12" therefore makes available a data field of 16 bits, the "label 15" is therefore not specified in detail.

It is therefore believed that the above presented clarification answers the questions raised by the Examiner.

Turning now to the Examiner's grounds for the rejection of the claims over the art and in particular to the patent to Myr, it is respectfully submitted that this reference deals with a vehicle navigation system in which based on an inquiry of a vehicle, in a central unit a route from an actual vehicle location to a destination is calculated in accordance with an optimization criterium and the resulting traveling route is transmitted to the inquiring vehicle. The route calculation is performed with consideration of travel obstacles, which are transmitted to the central unit by a sample vehicle fleet.

For determining vehicle obstacles the vehicle of the sample fleet indicates through GSM (global system for mobile communication) its passing time through a section of the vehicle travel way network to the central unit, while the vehicles determine their corresponding position by means of a GPS (Global Positioning System) receiver. The indicated passing times are compared in the central unit with the stored passing times for the corresponding traffic way sections parts, and in the case of significant deviations of the indicated variables from the stored variables a conclusion

is made about a traffic. In the case of the traffic obstruction a route calculation based on the actual passage times, as for example with consideration of actual traffic obstruction is calculated.

It is correct that the traffic informations, namely the calculated routes are transmitted from the central unit to the vehicle. It unquestionably includes also location informations, namely a sequence of section parts to be traveled (for example r7, r8 in Figure 21).

The method in accordance with the present invention is different from the solution proposed in the reference first of all in the type of the transmitted traffic information. The traffic informations in the present invention is traffic obstruction informations. This traffic obstruction informations in form of the TMC (Traffic Message Channel) System includes so-called "location codes" which characterize the marked points in the traffic way network. They include in particular entrances and exits of highways, roadway triangles and intersections, resting places, etc. This location coding makes possible a localization of a traffic obstacle to a section part provided by two neighboring "locations", which is the exact location of the traffic obstacle, but is not passable in this way. In accordance with the present invention, it is proposed in addition to the "location code" of the

corresponding section part, to transmit the section part between the actual location of the event and the location referenced by the "location code".

The patent to Myr does not have any suggestion, in addition to a "location code" of a section part corresponding to a vehicle obstacle, to transmit the section part between the actual location of the traffic obstacle and the location referenced by the "location code". At best, it can be derived from the patent to Myr that the vehicle obstacle messages are transmitted from the central unit to the vehicles. How the locations of the vehicle obstacles are exactly transmitted is however not disclosed in the reference.

It is respectfully submitted that the new features of the present invention which are defined in claim 1 are therefore not disclosed in this reference and can not be derived from it.

The reference also does not provide any hint or suggestion that such features are disclosed in the reference or can not be disclosed in it, and also the solution proposed in the reference can not accomplish the highly advantageous results which are accomplished by the present invention.

In order to arrive at the applicant's invention from the teaching of the reference, the reference has to be fundamentally modified. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision *in re Randol and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the reference does not teach such new features.

Also, as mentioned herein above, the present invention provides for advantageous results which are not accomplished by the constructions disclosed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case *Ex parte Tanaka, Marushima and Takahashi* (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1, the broadest claim on file, should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1, they share its presumably allowable features, and therefore it is respectfully submitted that they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be

helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,


Michael J. Striker
Attorney for Applicants
Reg. No. 27233

RECEIVED
CENTRAL FAX CENTER
SEP 09 2003

OFFICIAL